

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, March 7, 2001, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Russ Bayer, Jon Carlson, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Greg Schwinn, Cecil Steward and Tommy Taylor; Kathleen Sellman, Ray Hill, Steve Henrichsen, Jennifer Dam, Jason Reynolds, Kay Liang, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Russ Bayer called the meeting to order and requested a motion approving the minutes for the meeting held February 21, 2001. Motion to approve made by Duvall, seconded by Krieser and carried 7-0: Bayer, Carlson, Duvall, Krieser, Schwinn, Steward and Taylor voting 'yes'; Hunter and Newman abstaining.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor.

The Consent agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 203; SPECIAL PERMIT NO. 1881, EAGLE VIEW COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 00026, EAGLE VIEW; FINAL PLAT NO. 00016, LANDMARK CORPORATE CENTER; and STREET AND ALLEY VACATION 01002.**

Item No. 1.2a, Special Permit No. 1881, and Item No. 1.2b, Preliminary Plat No. 00026, were removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Carlson and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'.

Note: This is final action on Final Plat No. 00016, Landmark Corporate Center, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by Planning Commission.

SPECIAL PERMIT NO. 1881
EAGLE VIEW COMMUNITY UNIT PLAN
and
PRELIMINARY PLAT NO. 00026,
EAGLE VIEW,
ON PROPERTY GENERALLY LOCATED
AT TALON ROAD AND PEREGRINE COURT.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer.

Staff recommendation: Conditional approval.

These applications were removed from the Consent Agenda and scheduled for separate public hearing.

Proponents

1. **Brian Carstens** appeared on behalf of the developer. This is a community unit plan for a total of 6 duplex structures or 12 residences. It is immediately south of the Eagle Crest subdivision currently being constructed and immediately east of some existing townhomes. It is a fairly straight forward application with private roadway, public water and sewer. There is a waiver of the lot width because the lots are only 40' wide. Because of previous annexation, the depth waiver is necessary. The waiver of sidewalks on the west side of the private roadway is requested because there are no lots that have frontage so only the lots on the east side need sidewalk.

Opposition

1. **Gilbert Pugh**, 1022 Daybreak Circle, testified in opposition. There is an awful lot of building going on back in there and he wants to make sure he and his neighbors have protection. He wanted to know the value of those homes. He does not want a bunch of "army barracks" back there. Secondly, the access is a concern. With all these people trying to get out, we are fearful our homes will become a traffic way and maybe we need some kind of wall constructed. We don't want them to have access to our yard. The

quickest way out to 84th is going to be through one of our houses and not on Larson Blvd. Privacy is also an issue. If there are a lot of people and a lot of children, his neighborhood will need some privacy protection.

2. Eldon Peterson, 1030 Daybreak Circle, is concerned with this development. It seems like another piece of “slip-in”. He called attention to the exact location of his property. He is concerned with individuals in the new development who might want to walk over to the Runza or some of the other restaurants. How are they going to get there? Just to the west of 1030 and across Daybreak, there is a sidewalk that sort of goes to the northwest. He calls it the sidewalk that goes nowhere because it ends at 84th Street. There was some objection when these homes were built about 10 years ago. People wondered why we had the sidewalk and the city insisted that there be one and it has not been used. He is concerned that young people might want to go to Runza and the shortest distance would be to go through the lots at 1030 and 1022 Daybreak, taking the sidewalk down to 84th. The sidewalk is on the west side of 84th. When we come out from Larson left on 84th, it is becoming more burdensome all the time. It is a dangerous situation for the people in this new area who may want to go to some of the shops. If they don't go through our lots, they would go north on the private roadway to Peregrine Court. You cannot make a left turn and go down to 84th. And certainly the people with homes in that cul-de-sac will have a tall fence for noise protection from 84th Street. The individual that might walk would need to go to Peregrine Court, turn right and go to Talon Road, and then they would need to go north two and one-half blocks to Holdrege. There are no sidewalks on either side of Holdrege. This is a serious problem. When he purchased his property he was told that the city limits were at the back side of his lot line. That is no longer true because the city limits now go further east. Seven of us on Daybreak Circle were told that the city limits were at the back of our lot line, and we were told that the area to the east would be estates (larger homes). He calls this a “slip-in” project and he is opposed. It will create access problems. We do not want a lot of people coming to use that sidewalk that goes nowhere.

Response by the Applicant

Carstens advised that the realtor involved with this development indicates that the price will be \$150,000 to \$200,000. Hoegemeyer-Palmer typically builds duplexes for the “empty nester”. That has been their clientele for many years and this would be a continuation of the projects they have also developed in Lincoln.

With regard to vehicular access, the traffic would go up to Peregrine Court and then head north. There is no way for us to go south or east through the opposition's properties. Carstens agrees that the pedestrian circulation could be a problem but this developer does not anticipate children being in this project because they typically do not market toward that niche. There could be a pedestrian easement up further north on their previous plat. Short of a fence, he does not know how to keep people out of their back yards. That is part of the

reason for the location of the roadway there. The area was annexed to the city many years ago when Sunrise Estates was approved. The east line of this project is the current city limits and has been zoned.

Steward inquired whether there are any existing fences along what would be this development's west property line. Carstens indicated that there are none there today. There are no fences between properties.

Hunter inquired whether the same person owns the lots that are on Peregrine Court. Carstens answered in the affirmative. The same developer is the owner of those lots. Hunter was curious because there was no plan for walkways, etc. A path could maybe be created between the north part. Carstens agreed that there could be an opportunity.

Carlson inquired about the square footage of these narrow lots. Carstens stated that they are basically 40' x 150', approximately 6,000 sq. ft. They are the same as the Eagle Crest subdivision to the north except for the lots around the cul-de-sacs.

Carlson inquired how a non-car motion gets made to the west. Carstens did not have an answer.

Bayer noted that there is no pedestrian right-of-way between Daybreak Circle to the east, but there is from Daybreak Circle to the west. We're looking at six lots that would be south. So there are six that may cross through there but it would be trespass. Carlson believes they would need to move along the street. Bayer suggested that if there are children that move in they will clearly cut across the dirt to get out there. But the developer has indicated that these units will not be marketed to young families.

Public hearing was closed.

SPECIAL PERMIT NO. 1881,

EAGLE VIEW COMMUNITY UNIT PLAN.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Duvall.

Carlson commented that it appears we have a circumstance where we have a piece of property that is "pedestrian landlocked". He does not know the history and he is not sure it is the fault of the current developer. He is not sure it is a "slip-in" situation but he sees no resolution to the pedestrian access. He does not know that he would support denying an application based on this circumstance, but it should be kept in mind.

Motion for conditional approval carried 9-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer voting 'yes'.

PRELIMINARY PLAT NO. 00026, EAGLE VIEW

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Krieser and carried 9-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer voting 'yes'.

CHANGE OF ZONE NO. 3134B

AMENDMENT TO THE WILLOW SPRINGS

FINAL PLANNED UNIT DEVELOPMENT

ON PROPERTY GENERALLY LOCATED

AT SO. 78TH STREET AND PIONEERS BLVD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer.

Planning staff recommendation: Conditional approval.

Proponents

1. Scott Sullivan of Erickson-Sullivan Architects, presented the application on behalf of the applicant, **Eastmont Towers**. Eastmont desires to build an assisted living facility on the northwest corner of 78th & Pioneers Blvd. This assisted living facility will have a unique aspect as it will be for patients that are terminally ill, with a goal to provide a home-like atmosphere for the patients and visiting family. There will be six bedrooms. There will be 24-hour nursing care, three meals daily, linen/laundry service, transportation, and nursing consulting.

With regard to the site plan, they have intentionally located the required parking lot to the south edge of the three lots to provide some acoustical separation from the traffic for residents and to minimize the vehicular impact on 78th Street, thereby bringing the cars into the parking lot as soon as possible.

Although the building is large in scale, 6300 sq. ft., it is designed such that it is divided into three components as they address 78th Street to reduce the scale of the building more in line with the residences across the street.

In addition to landscape requirements, extensive landscaping will be provided around the building to provide the residential aspect of the facility.

The six bedroom facilities for patients will have their own shower and toilet facilities. There is a shared living room and dining room, child's play room, kitchen, and solace room in addition to facilities for staffing, laundry facilities, and single stall garage.

Sullivan reported that the developer did meet with the neighborhood and there was one request to orient the garage with access on the south side with the door facing Pioneers. This resulted in only needing one driveway off 78th Street.

In terms of aesthetics, the goal is to provide a homelike facility. This takes three lots, but the front elevation shows that the components are built into three projecting toward 78th to give more of an impression of smaller buildings more in unison with the residences across the street. The building will be low maintenance windows, brick facade, all in keeping with residential aesthetics.

The applicant agreed with the conditions of approval.

There was no testimony in opposition.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Steward moved to approve the Planning staff recommendation of conditional approval, seconded by Newman.

Schwinn commented that this is in his neighborhood. Many times we have concerns about this type of facility and sometimes opposition, but this is a very good use for this property and he believes his whole neighborhood will welcome this project. This is the type of facility that needs to be integrated into existing neighborhoods.

Motion for conditional approval carried 9-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer voting 'yes'.

SPECIAL PERMIT NO. 1884
and
SPECIAL PERMIT NO. 1891
FOR A WIRELESS COMMUNICATIONS FACILITY
ON PROPERTY GENERALLY LOCATED
AT SO. 17TH & GARFIELD STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer.

Planning staff recommendation: Conditional approval of Special Permit No. 1884 and denial of Special Permit No. 1891.

Special Permit No. 1884 was first called for public hearing; however, the testimony started to relate to Special Permit No. 1891 as well and the Chair requested that Special Permit No. 1891 be called for hearing at the same time.

Special Permit No. 1884 is a request by David Miller for a wireless communications facility at the northwest corner of 17th & Garfield, while Special Permit No. 1894 is a request by Qwest Wireless for a wireless communications facility at the southwest corner of 17th & Garfield.

Proponents

1. **Brian Carstens** appeared on behalf of the applicant for Special Permit No. 1881, **David Miller of Miller Electric**. This is for an 80' (79' with 12" lightning rod) cell monopole tower at 17th & Garfield. The site is zoned B-3. The purpose of this tower is to allow for antennae for Miller's two-way radio communications for his electrical contracting business with the ability to collocate additional cellular antennas. He currently has letters of commitment from Alltel, Qwest and Cellular One. Miller can accommodate two other carriers. Carstens had no objections to the conditions of approval.

Carstens confirmed that all of the cellular antennas would hug around the tower itself. There would not be any triangular platforms. There are trees to the north and south and they will landscape the base of the tower.

Steward noticed that there is a concern by the Near South Neighborhood Association and asked whether Carstens has discussed a camouflaged strategy for this tower. Carstens submitted that the term "camouflaged" is subjective. This was tried at Woods Park to make the tower look like a tree and it looked like a palm tree. Miller's original proposal was for

120' and he has scaled it down to 80'. Carstens believes that camouflage would call more attention to it. It is hidden behind the buildings and is not out on the streetscape. It will be galvanized in color.

With regard to Qwest Wireless, Carstens advised that Miller does have a letter of intent for collocation from Qwest. Qwest needs to get a tower on line immediately. They applied for Special Permit 1891 separately because the Miller tower application was moving too slowly at the time.

Carlson inquired whether this would be the only two-way radio tower that Miller uses for his business. **Dave Miller of Miller Electric** stated that he does have a tower at 84th & Pioneers, but he has very poor radio communication to the south and southwest. This tower would tie in with the tower at 84th & Pioneers to cover their dead area. This is the only property he owns and he operates his business from this location. Carlson wondered if the tower must be located here to technically work. Miller would not want to pay tower space at another location. It is more feasible to have the tower on his property. Miller's parents own the property where the tower is located at 84th & Pioneers.

Bayer was curious about the letter of intent. If someone gives you a letter of intent, does that mean they can be on your tower? Miller stated that to be true. Originally, he wanted to have a tower that could have more carriers. But, he has lowered the tower and he has three letters of intent. He now has a contract with Qwest, but not the other two.

2. Jill Bazzell of Qwest Wireless, testified in support of Special Permit No. 1881. Qwest is in an awkward position. When first approached by Miller for a site in this area, Qwest had been working with the Near South Neighborhood about an area in their park and they did not want it. Qwest then began to work with Mr. Miller and gave a letter of intent to collocate on his tower at 70'. Qwest then went to neighborhood with that proposal and the height of the tower was an objection. Qwest did not think the Miller tower was going to be something that would be approved so they began looking for another site in the general area. Qwest was approached by the landlord across the street from Miller, B&J Partnership, to lease ground space. Qwest has a lease agreement with B & J Partnership and believes the neighborhood supports that proposed site over the Miller site as it is designed to blend in with the existing design scheme of the area as it would be a light pole installation. Qwest still also has a letter of intent with Miller and Qwest is not opposed to his site. Qwest needs a site in this area.

Hunter asked whether the Qwest location is more camouflaged. Bazzell indicated that the Qwest proposal is better fit with the area because it is a stealth application. It could hold another carrier; however, the height is limited by the Historical Society. The Historical Society

does not want anything above the 80' because of the impact on the historical area. If someone wanted to go below us, that would be an option. The proposed height of the Miller tower is 79'. Miller has a letter of intent from Alltel at 80'. Therefore, Qwest would not be able to put its antenna at 70' in order to get two providers on the Miller pole.

Jennifer Dam of Planning staff explained that the application for the Miller Electric site was submitted last fall for a 120' tower; at the same time Qwest submitted an administrative permit to collocate on that tower. That is still a valid application. Throughout the fall the staff negotiated with Miller and the application has not been scheduled until now for a variety of reasons. Over that period, the site of the Miller tower has been moved from the front of the residential lot to behind the Miller Electric building on a commercial lot with the height reduced from 120' to 80'. In the meantime, Qwest submitted an application on the south side of the street. They both hit on the same agenda. The staff analysis is based on the requirements of the city's wireless ordinance. The Miller special permit is for a single pole that would have his two-way radio communications on it. There is a valid administrative special permit application in process for Qwest to collocate on that tower. At the same time, Qwest has an application across the street which is substantially the same impact as the Miller proposal.

Bayer noted that the neighborhood appears to like the Qwest tower better than Miller. Dam stated that the Neighborhood Association did not provide staff with a position on either tower. She agreed that the neighborhood likes a low profile or more camouflaged type with height preference of 75'. That letter is included in the staff reports.

Newman inquired whether Miller could put up a tower without going through the cell tower special permit. Dam indicated that he could not. Newman commented then that Miller is trying to put up a tower and add cell providers. Dam responded that under the ordinance definition, Miller must go through this special permit process. He is also trying to meet the requirements of our ordinance by making it available for collocation.

Newman asked staff which tower is less or more camouflaged. Dam believes they are substantially the same. They are both a pole with tight fitting antennae at the top of the pole. The staff recommendation of denial of Special Permit 1891 is based upon the ordinance requirements for providers to substantiate why they cannot locate on another tower within 100'. Qwest has an application to collocate on the Miller Electric tower which is the earliest application. They have already shown that they could locate on the Miller Electric tower.

Duvall asked whether there is different criteria between a two-way radio tower and wireless tower. Dam stated that the criteria is the same under the zoning ordinance.

Carlson asked whether the staff would have recommended approval of the Qwest application for the same reasons if it had been applied for first. Dam responded, “possibly”, but she had to base her analysis on what was in front of her, including Qwest’s application to collocate on the Miller tower.

If there had been a tower existing that was owned or had been put up by Qwest, Steward wonders whether we would be having the conversation about the Miller application for collocation. Dam indicated that would be the case because we would want him to collocate on the Qwest tower under the same guidelines.

Hunter commented that if Miller puts up a tower, then Qwest rents from him. If Qwest gets their tower, Miller rents from Qwest. Bayer believes the issue then becomes whether the 73' Qwest tower can handle the same thing as the 79' Miller tower.

Dam clarified that this is not a historic area. All applications for wireless facilities are routed to the Historical Society for review, and all wireless applications are required to go through the section 106 process to determine that there is no impact on historic resources. The Historical Society was concerned that the Miller Electric tower might have an impact, so an analysis was performed and it was determined that there would be no impact.

Bayer wonders whether we’re being shortsighted. The federal regulations require us to allow a cellular operator to put a tower where they say they need it. We’ve taken the Miller tower from 120' to 79' which limits the number of operators. Are we creating an opportunity for another operator coming in and saying they need another tower? Dam believes that is a difficult determination to make because she does not know the needs of the other companies.

Dam clarified also that the staff is recommending approval of the waiver of the fall zone on both towers because neither would impact a residential dwelling unit.

Bazzell agreed that Qwest can be on either tower. However, Qwest believes that the neighborhood supports the Qwest location over the Miller application. The letter that the neighborhood sent to Planning in December states that:

“....Any uncamouflaged tower should be limited to not more than 10' above the existing tree canopy--a maximum of 70'. This, along with the existing provisions for landscaping the base, will help to ensure that the sight lines to the tower are minimized. Also, the tower should be designed to incorporate any existing design themes in the area. This could be accomplished with lighting, signage, as a flagpole, or other designs appropriate to the circumstance.”

Qwest is proposing a light pole installation at the Smith (B & J Partnership) property.

Bazzell displayed pictures showing the difference between the two towers. Qwest would have to locate further down on the Miller than they would want. The proposed site on the Smith property is a light pole application. Qwest is allowed to be at the top of the pole; it is less obtrusive; and will be bronze in color, thus the Qwest tower better blends with the design scheme of the area. The landlord (B & J Partnership) at the Smith property has indicated that they are willing to entertain revenue sharing with the neighborhood association. If Miller has three letters of intent and it is a two-carrier pole, there will be other providers wanting a location in the area. Qwest can do a better stealth application than other providers.

Carlson asked whether the tops of the towers can be painted. Bazzell indicated that they could, and the base can be painted any color as well.

Bayer clarified that from a technological point of view either tower works for Qwest. Bazzell concurred. Bayer asked how many other providers could locate on the Qwest tower. Bazzell stated that if someone wanted to locate underneath Qwest's 70', they could. Qwest is satisfied with 70' on this tower. Because of a certain separation between other providers, they would have to move their antennae down on the Miller tower.

Bayer pointed out that because the community does not want a taller tower, we've limited the number of providers that can go on either tower.

Hunter believes the Commission is interested in limiting the number of towers. How much taller would the Qwest tower have to be to add a third carrier? Bazzell responded that in working with the neighborhood, the maximum height they want in this neighborhood is 75'. The Miller tower is already taller than that at 80'. She does not know what the height would be with a third carrier and that determination would require going back through the 106 process.

Schwinn asked Bazzell what Qwest would do if both towers were approved. Bazzell indicated that Qwest would build the tower in Special Permit 1891.

3. Dallas Jones testified on behalf of the **Near South Neighborhood Association**. The Association is basically a proponent of the Qwest application and opponent of the Miller application. When this issue was first presented to the Association, many of the members were of the position and opinion that they don't want any towers. The approach they took was to identify a tower in a location which basically provided the most camouflage and was limited in height. We were trying to mitigate the negative visual impact in the neighborhood. The Qwest proposal seemed to be able to accommodate the needs of the neighborhood more in terms of camouflaging. The neighborhood's bigger concern was the height considerations. In an older neighborhood you can't mitigate the effects of height by placing the tower a long

ways from the people. The neighborhood will consistently prefer 70' (not 75') with the understanding that the height of the canopy of the trees in the area is 40-60 feet. Qwest had indicated they needed 70' technologically. It was the neighborhood's thought that they would prefer the tower be no higher than the canopy of the trees, but they would accept the additional 10' if it is absolutely necessary from a technological point of view.

Jones also advised that the neighborhood had previously considered some other locations that did not work out, i.e. 16th & A (Trinity Church); Russ's Market parking lot; and the park owned by the Neighborhood Association in the "A" Street area. We are left with these two options. The neighborhood prefers the Qwest option because of the height and it is more camouflaged and more stealth. The Qwest tower will be back behind the next tallest location in the area, thereby camouflaging the lower aspect of the tower. He does not believe the Miller tower fits that characterization. The Qwest tower is closer to the neighborhood's height preference.

Steward asked Jones whether the neighborhood knew that there was a Miller application until they talked with Qwest. Jones personally could not say for sure as to the timing. He recalls that they were first aware of the Qwest application and maybe simultaneously with Miller. He was not sure.

Because of the essential primary use distinction of these two towers, Steward inquired whether the Neighborhood Association has discussed the real possibility that they may have two towers instead of one. Jones acknowledged that they have discussed that issue and their general approach has been that "more shorter towers is better". Steward then confirmed with Jones that the neighborhood is not opposed to having both towers. Jones believes the neighborhood's position would be that there should be one. Steward believes there is a huge difference in the technology.

Hunter was not sure where this will leave us because the Commission's mission has been to see as few of these towers as possible. It would be nice to think that we are always going to respect the neighborhood's wishes with every application that comes through. But, when you are looking at six users in the City seeking locations, she believes that there will be another tower at this location. She is just not sure, given the fact that there is no height restriction, that the neighborhood wouldn't be better off having someone else locate on that tower rather than have another one.

Bayer clarified that the neighborhood association wants more smaller towers, rather than the tall ones.

Response by the Applicants

Carstens showed the Qwest tower location and the Miller tower location on the map, pointing out that the Miller tower is 55-60' further back from 17th Street. Miller would agree to reduce his height to 75', if necessary.

Schwinn pointed out that Qwest is willing to go on either tower. If we deny the Miller tower, can the Miller equipment go on the Qwest tower? Carstens stated that this has not yet been discussed. Miller can put up a communications tower 45' in height for his radio communications by right. But, that would not satisfy his southwest needs because of the tree canopy.

Bazzell pointed out that four providers on the Miller tower will not happen. The original proposal of 120' at the Miller site could have accommodated four providers. There is a certain amount of separation that is needed and they all have to be above the tree canopy. With the Miller site at 75', Qwest would have to lower their antenna by about 6', which would not give them the coverage they are looking for in the area. Qwest has not talked to Miller about collocation on the Qwest tower, but she believes it would be possible.

Schwinn wondered how the trees are going to stay at 60'. Aren't they going to keep growing? Ray Hill of Planning staff stated that there is a mature height for trees and once they get there they don't grow taller.

Carlson asked whether the separation requirement is different for two-way and wireless. Corby Dill of Qwest stated that there is a difference depending on various factors. He does not have the information about Miller locating on the Qwest tower with respect to separation.

Hunter sought clarification of the comment about sharing revenue with the neighborhood association. Is that a commitment by the landowner or by Qwest because Qwest owns the tower? Bazzell stated that Qwest has not committed to anything; that is something that they are willing to discuss and it is strictly between the landlord and the neighborhood association. Bayer suggested that this should not be an issue considered by the Planning Commission.

Public hearing was closed.

SPECIAL PERMIT NO. 1884

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Steward moved to approve the Planning staff recommendation of conditional approval of the 80' tower, seconded by Krieser.

Duvall believes this will result in two towers in the area anyway.

Steward believes that is speculation. What we have in front of us are two applications within close proximity to each other and he believes there is precedence for timing and precedence for the process and the private owner. Given the circumstances, Steward is perfectly prepared to deal with these individually and then deal with the next ones as they may come. There are not four carriers in front of the Commission.

Hunter suggested that if the neighborhood realizes there may be more coming, and they want more shorter towers rather than one taller, maybe that should be considered.

Newman believes the Commission has legislated itself into a box. We are encouraging collocation, but the neighborhood wants the one that does not encourage collocation. Miller will have to pay rent to someone else. It is a tough decision. She believes it is probably not necessarily both towers at this point but either/or.

Carlson is not sure that the first come/first serve argument is particularly appropriate for this application and he understands from testimony that there has been a history of intent to accommodate Qwest. Qwest should not be penalized for working and trying to find a location. As to the options between many short and one tall, we could debate that endlessly. The fact is that we are going to have a different preference depending on the location and circumstance, and we have an obligation in any part of town to try and make some accommodation and consideration for the people that live in that area. That needs to be an important part of our consideration. We are hamstrung by the Federal Telecommunications Act. We are trying to work with that to find the best sites. He understands why collocation exists in the code, but he would ask that we think about how successful we have been at encouraging and mandating collocation. His main point is public participation—the idea of rewarding the providers who work with the people around them. Carlson is involved in this neighborhood so he will abstain from voting.

Motion for approval, with conditions, carried 7-1: Steward, Hunter, Krieser, Taylor, Newman, Schwinn and Bayer voting 'yes'; Duvall voting 'no'; Carlson abstaining.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

SPECIAL PERMIT NO. 1891

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Steward moved to deny, seconded by Hunter.

Schwinn commented that the two users are here that want to be located in this area; they have contracts and the ability to be on the one tower, so why approve the second until someone else needs it?

Motion to deny carried 8-0: Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer voting 'yes'; Carlson abstaining.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

STREET VACATION NO. 01003
TO VACATE THE SOUTH 40' OF "X" STREET
GENERALLY LOCATED AT "X" STREET
AND NORTH 9TH STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, Schwinn and Bayer.

Planning staff recommendation: A finding of conformance with the Comprehensive Plan and conditional approval of the vacation of the south 34'.

Proponents

1. **Frank Sidles, Capital Contractors, Inc.**, presented the application. The petition to vacate requests the vacation of 40'; however, the staff is recommending approval of the vacation of 34'. Sidles showed photographs of the area that he is requesting be vacated, which includes a ditch. Sidles submitted that 34' doesn't cover the entire ditch. Up until last fall there was a railroad track along side this ditch, which has now been removed. For the last 70-80 years that track had been there as an easement on X Street and the X Street that was usable was only that part to the north of the railroad track. Capital Contractors would like to have 40' vacated so that they can get across the ditch. The street itself is 100' in width. Only the north 40-45' have been used in the last 40-50-60 years because of the railroad track that was there. Sidles acknowledged that the subdivision ordinance requires 66' r.o.w to accommodate 33' of paving. If the city ends up with 60' r.o.w, 33' of paving should be able to be accommodated; that is, if the city ever puts in the paving. Sidles pointed out that this area has been zoned industrial for many years and there has never been any paving, and the city has probably not taken care of the street as it should.

Sidles showed another photograph of the current X street. As you also look toward the overpass, there are concrete columns holding up the bridge structure. There is also a fence. The distance between the fence and the traffic pattern between that fence is at a maximum of 42'. The city has said they are going to pave that area from No. 6th to No. 7th, but the area under the overpass is going to be 42' at the maximum. Sidles believes it should be appropriate to vacate 40' and just cut the r.o.w. down to 60' between the area on X Street next to the property he is requesting to be vacated. Sidles stated that he would accept 34', but he would rather have the additional 6', i.e. 40' vacated.

Steward inquired as to the intended use of the vacated property. Steward is concerned about the ditch. Sidles stated that Capital Contractors intends to fill in the ditch, fence the area and use it for storage. They will work with the city and do whatever is necessary to accommodate the fill. They definitely want to cover the ditch and they need more area for storage of equipment and supplies. The alley from the south would go straight through over X Street.

Sidles clarified that the house shown on the aerial map has been removed. The area is vacant. Sidles further pointed out that as X goes east and west, the structures to the south are owned by the person who owns the house on North 8th Street. Sidles clarified that there are four vacant lots and a house further south. Sidles also clarified that the LES power pole is located on X Street.

Hunter inquired whether this in any way impacts anyone currently using that area. Sidles could see no reason why it should. They will have access to X Street. Nobody had use of that part of the street while the railroad was there. The city has at times, but not consistently, cut the weeds in that ditch. Most of the time those weeds have grown and that was part of X Street.

Opposition

1. Becky Schenaman, 817 Y Street, testified in opposition. Her house is directly beside the alley. She shared photographs showing the ruts on X Street because of the use by Capital Contractors. The only reason the neighbors have not used X Street is because of the condition it is in. If X Street is vacated, the ditch will be covered and the alley will be open, and she will get traffic from W Street. With the baseball stadium, she will have hundreds of cars coming through. She does not want her alley used as a street. The alley that Capital Contractors wants to open up will make the alley a roadway into her yard. This would result in two blocks of connecting alleys.

2. Don Burbach explained that Schenaman lives ½ block north of the proposed vacation. The city now also has plans to build a road or pave a road under the bridge from the new ballpark into the North Bottoms close to this proposed vacation. He does not believe these projects are right. Why would they want to dump traffic from the ballpark into the

neighborhood? Schenaman believes it will open up the alley that is blocked now. She believes the traffic will use the alley instead of 9th Street. Schenaman is hopeful that the city will improve X Street if it is not vacated.

Carlson clarified with Schenaman that she wants X Street to stay open. Schenaman concurred.

Taylor confirmed with Schenaman that she is suggesting that this creates more of a traffic problem, and with more traffic in that area, it increases the dust. Schenaman added that it is also going to increase the usage of that alleyway from W Street to Y Street, which affects her property. It doesn't affect anyone else that much. It creates a traffic problem right up against the foundation of her home. This will open up both alleys from Y to W. If there is a roadway across X, they will go from W Street straight to Y. People leaving the ballpark will come around on 8th, onto W and use the alleyway.

Newman clarified that presently there is a ditch all the way so that the alley does not go through. This vacation will fill that ditch and make it so that people can cross X. Therefore, the alley south and north of X will be connected and Schenaman's fear is that people will use the alley as a through north/south street. Schenaman agreed.

Don Burbach testified in opposition. Historically, the city has neglected that particular end of North Bottoms and he has heard today during the cell tower hearing that the Planning Commission's interest stays in the neighborhoods. He wishes that were true. The city has done everything they can to destroy the North Bottoms. The ugliest place in the entire city is Capital Contractors. If we close any more of the neighborhood, how will we ever ask the city or anyone to build in that neighborhood if we keep destroying what little bit is left? We should do something to stop running down that neighborhood and do something to build it up. Nobody seems to care about this neighborhood.

3. Randy Stramel, an architect who lives in the North Bottoms, testified in opposition. He proposed a "big picture" suggestion. Consider the precedent in this city in the rails to trails scenario—this is a perfect example of something that could be utilized that way. This could be an enhancement opportunity for the JAVA (Antelope Valley) and the ballpark. If we give up 40' of r.o.w., we give up the opportunity to put some amenity in the North Bottoms. This r.o.w. is one way we have to protect North Bottoms from the noise, dust, railroad, and added traffic that is going to come along the south edge, and if we give up that r.o.w. we give up the opportunity to mitigate the impacts of surrounding uses. It does not seem like prudent public policy to give up public property when it can be put to positive public use.

4. David Prochnow testified in opposition. He is an expert on X Street because he grew up in the neighborhood. In any roadway, the bridge is the narrowest point. He mentioned that the railroad tracks were always there, but during football Saturdays, people would park on the railroad track. At 5:30 this morning, a truck loaded with a crane came on the bridge with strobe lights. The city maintains that 66' is wide enough for that road, but we're not talking about just any road. We're talking about a road that takes wide and heavy loads, a road shut off with parked cars during football Saturdays. They paved 8th Street last fall, but they made curb cuts so that the dirt road can pass through the paved road. If you look at those curb cuts, you've never seen so many tire marks. Obviously, the road is not wide enough the way the city made it. Capital Contractors and others using that road are hitting the curb as they are turning. That is a dirt road. As soon as the baseball park is done and the frost comes out of the ground or the first rain, there is going to be a mud trail going through that ballpark and the city is going to want to pave that street. With all the bike trails and sidewalk concerns, he does not know if 66' is going to be adequate. It is not an ordinary road. It is more or less an industrial road that is heavily used.

Staff questions

Steward inquired as to the situation with the railway r.o.w. Does the city own what formerly was UP r.o.w.? Dennis Bartels of Public Works explained that X Street has always been a platted r.o.w. and the railroad went through it. It was never railroad property.

Taylor noted that the Comprehensive Plan does not address X Street. He asked staff to explain how this vacation is found to be in conformance with the Comprehensive Plan. Bartels stated that it is a local street with industrial zoning on both sides. That is why he recommended 66' r.o.w., which is the minimum r.o.w. width of the subdivision ordinance. If platted today, the city would ask for 66' r.o.w. so he has recommended that only 34' be vacated as opposed to 40'.

Hunter was concerned about the potential future use of this area with the baseball park. Historically, because this is around the stadium cars will try to go anywhere that they can and the use will be more intensive in the future. She asked Bartels whether he foresees potential paving for this street or using this as a through street. Bartels believes that the idea was to discourage use of this street during game times. West from I-180 to 7th Street will be paved as part of the baseball project. The area torn up during construction of the baseball will be reroaked, but the goal is to keep the baseball traffic out of this neighborhood and not encourage it to go into this neighborhood.

Duvall asked whether a gate will be put under the bridge to prevent the traffic. Bartels was not sure about the phasing or what will happen traffic control wise with the baseball games. One way to handle it would be to close X Street beneath I-180, but once Capital Contractors was there, they needed to get the trucks out. They try to turn and go north either on 8th or 9th, but

the streets are not wide enough, so the only practical way to get the Capital Contractor trucks out was to keep X Street open all the way to 6th Street. They have historically been going that direction and we are trying to maintain that movement and that is the reason for paving from 6th to 7th.

Bartels clarified that the railroad corridor east of 9th has been vacated. The city no longer owns the X street r.o.w. east of 9th Street. The whole 100' has been vacated and he believes Capital Contractors owns it between 9th and 10th.

Bartels also suggested that by extending the alley, Sidles was trying to accommodate the neighborhood. As far as the Capital Contractors operation is concerned, they can leave the ditch in place rather than extend the alley. Whether or not it is vacated, we don't have to change the status of that alley. The vacation stops at the east end of the alley. Sidles thought the neighborhood wanted the alley opened. If that is not the desire, we can make sure that if it is vacated and Sidles wants to enclose that ditch, we'll stop the pipe on the east side of the alley.

Response by the Applicant

Sidles confirmed that X Street is vacated to the east of 9th Street and the entire 100' was vacated in 1984-85.

Sidles requested that the 40' vacation be approved, rather than 34'. Capital Contractors will fence it, rock it and fill in the ditch. It gives us more room and a better opportunity with the city to get that ditch filled in.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Carlson moved to deny, seconded by Newman.

Carlson remembered the public hearing on the proposal to vacate X Street previously. He was also thinking about vacations the Commission has reviewed in the last year. He suggested that every time we vacate public land, we need to determine the public interest in doing so. It is a question of timing. We do have an isolated pocket of residential here and whether it is industrial encroachment or residential encroachment, he does not see any compelling reason to vacate. We don't know what we might want to do with that.

Steward believes that this proposal is remarkably different than the vacation further to the east that has taken place. The city and the public have substantial different interests in this area than it had at that time. He does not think we know enough about traffic patterns and issues. This could be a major mistake in a piecemeal fashion without better understanding of that area.

Taylor is concerned about the future. We should be more patient and see how this develops. He is concerned about this neighborhood and he appreciates the concerns the citizenry has for their neighborhood. This is a precedent in this area that we would be better to set aside and see how it develops and then take a look at it at another time. He is not opposed to Capital Contractors or industry.

Schwinn stated that he will vote against denial. He does not think this piece of property is that significant. If it is the wish of the Commission and the City Council to look at this seriously, then it is time to sit down and do a blighted study or a subarea plan of the North Bottoms and come up with a real program of what the city wants to do to preserve this area. This applicant has been a long time member of this community. It is a highly industrial zoned area, with hard edges on all four sides of this neighborhood, and if it is the will of the city to start protecting this neighborhood, then maybe we need to negotiate with Mr. Sidles to find a better place to move his corporation and look at redeveloping this neighborhood. If we don't have that will, he does not see how this 40' piece of land is that significant in the whole scheme of things.

Motion to deny carried 6-3: Carlson, Steward, Hunter, Krieser, Taylor and Newman voting 'yes'; Duvall, Bayer and Schwinn voting 'no'.

ANNEXATION NO. 01001;
CHANGE OF ZONE NO. 3301
FROM AG AGRICULTURAL TO H-4 GENERAL COMMERCIAL,
R-3 RESIDENTIAL, AND B-2 PLANNED NEIGHBORHOOD BUSINESS,
AND FROM B-2 PLANNED NEIGHBORHOOD BUSINESS TO R-3 RESIDENTIAL;
SPECIAL PERMIT NO. 1753B,
VAVRINA MEADOWS 1ST ADDITION COMMUNITY UNIT PLAN;
PRELIMINARY PLAT NO. 00022, VAVRINA MEADOWS 1ST ADDITION;
USE PERMIT NO. 129A; and
SPECIAL PERMIT NO. 1895
ON PROPERTY GENERALLY LOCATED
AT SOUTH 14TH STREET AND YANKEE HILL ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn;
Bayer absent.

Planning staff recommendation: Approval of the annexation subject to an annexation agreement; approval of the change of zone; and conditional approval of the community unit plan, preliminary plat, use permit and special permit.

Proponents

1. Rick Krueger presented the application, explaining that this project is implementing the Comprehensive Plan by proposing mixed use development under a community unit plan and components of the planned service commercial subdivision ordinance. This gives the residents various housing choices, types and opportunity to live close to an employment center with neighborhood services. This meets all strategies bound in the Comprehensive Plan for developing urban residential areas, including parks, proximity to schools, access to commercial center and safe walkway system for pedestrians and cyclists.

Krueger displayed a map showing the pedestrian easements, bike path, and green areas that were part of the original Vavrina Meadows Addition. This project attempts to create connectivity throughout this development. The public r.o.w. on 16th has been enlarged from 60 to 80' to accommodate a 10' bike path running down the front of those homes. The homes have rear access garages off a private alleyway. This developer worked with staff to take the 50' setback between commercial and residential, leaving 30' with a driveway to serve residences and 20' to accommodate the bike path. The bike path has been moved internal to the subdivision.

Krueger also pointed out the traffic connectivity with accesses to arterial streets from the neighborhood. Two go out to Pine Lake Road, the four to the south go to 14th Street and one

to the east goes to Yankee Hill Road. They are trying to accommodate the transportation element of this plan so that the residents come through the commercial areas so that they can combine trips.

As to 15th Street looking south, for the B-2 area they are considering the idea of combining some residences and some commercial but they have not totally made that choice. The intent is to implement some of the ideas floating around in regards to “new urbanism” and yet make it acceptable in the Lincoln market place.

Moving further south, Krueger pointed to the property for H-4 zoning. The idea here is to develop an employment center. Krueger did not have drawings showing the form and texture at this time but they do see individual owners in that area. They will be working on covenants for this area.

Steward asked Krueger to discuss Outlot C as to what he expects there and the drainage in general from this area. Krueger indicated that Outlot C is part of the original Vavrina Meadows subdivision. That area is the drainage and detention facility which exists today and that was installed in the past year. They did obtain a 404 permit. It is open.

Steward asked whether the lots that back up to the employment center are rear access lots. Krueger responded in the affirmative. Those are the rear access lots with the bike path out in front. The alleyway is strictly for use by the residences.

Carlson inquired about the reason for H-4 zoning for the employment center. Krueger stated that he has developed under H-4 in two other locations--Lincoln Trade Center and 29th & Pine Lake Road. H-4 allows a wide variety of uses from office, to warehouse to retail, etc. It is very broad based. Carlson is trying to get a sense as to whether the H-4 uses will be compatible with the residential. Krueger believes that they will. A square footage has been assigned to each of those lots, but in order to achieve the FAR the individual owners will have to provide enough on-site parking. He is using the city's design standards for the parking ratios. The H-4 does not require use permit approval.

Hunter observed that the lots appear to be pretty symmetrical except for the ones along the industrial area. Krueger advised that the lots with the rear access are 40x100 and they are designed for a 30' wide home.

Opposition

1. Shirley Alder, 1800 Yankee Hill Road, testified in opposition to the height waiver, the lack of recreational opportunity and the road in Special Permit No. 1753B. She and her husband started building their home in 1961--a project of love for their 10 children. It took 36 years to complete their home. They built what they could afford, paying as they went. During this time,

they have been responsible stewards of the land and reap the rewards of the sunsets and sunrise. This is why they are opposed to the height waiver for the building adjacent to their property. Krueger stated that the roofline would not exceed the height of the trees. Alder submitted that the height increase from 35' to 43' will result in a line that extends far above the trees. She realizes that she cannot stop the growth of the city but she would appreciate recognition of her concerns for the aesthetics of its growth. She requested that the Commission enforce the ordinance to limit the building height to 35'

Alder sees no location for children to play. Therefore, she is fearful that children will be drawn to the open areas of her property, and this is a liability she cannot afford to allow.

Alder is also concerned about stubbing the road up to the area of their property. They have no assurance that this road will not be extended through their property against their wishes in the future.

Alder requested: 1) denial of the waiver of the building height; 2) require the developer to provide for recreational needs for the southern portion of the development; and 3) that the Planning Commission see these property owners as people concerned with the healthy growth, not only of the land, but also and even more importantly, the people of Lincoln. Please be honest and up-front with us and keep us informed.

2. Nancy Alder, 2000 Yankee Hill Road, testified in opposition. She shares the same issues and concerns of the other existing homeowners. The Planning Department staff report dated 2/26/01 does not mention that there are a number of existing homeowners adjacent to the proposed development. We are referenced as being part of an annexation hole in the city limits. The report contains only one reference to an opinion and concern of one existing homeowner, and that was obtained through the developer.

The height waiver in Special Permit No. 1753B is being recommended for approval based on the developer desiring 9' ceilings and the fact that a similar waiver was approved at 14th & Garret Lane. Alder has talked with the staff and they have agreed that the current report offers no assessment of the impact on the adjacent homeowners. Garret Lane had no existing homeowners to consider in granting the height waiver. This should not be approved based on precedent. Henrichsen of Planning staff recommended that Alder contact Krueger to negotiate better safeguards. She did contact him and they have made some progress on this issue. But why is the Planning Department leaving this up to the existing homeowners to address? She was concerned that if she did not take the initiative to contact the developer, her concerns would not be addressed.

Alder also believes that the process appears to be falling short of the purpose of the community unit plan to encourage the creative design of new living areas and in order to permit open space. What open space?

Allder advised that the existing homeowners are engaged in the process and intend to stay engaged, but please allow us and help us to stay engaged in this process.

3. James Drake, 7900 So. 14th Street, testified in opposition. The 60x100' lots, the height waiver, the cluster density ratios, the lack of places for green space and children to play; and misleading development plans are his concerns. He purchased the property in 12/1999. Prior to this purchase, based on advice of the current owner and realtor, he was encouraged to meet with Mr. Krueger to discuss his development plans for this specific area. He did have those conversations with Mr. Krueger before making a sizable investment in his property. It was described as a plan to be developed like Country Meadows, where Krueger lives. Not once during these conversations did he hear anything about apartments at 19th and Yankee Hill, until about 3 months ago. During his conversations with Krueger, this plan looked very good and he moved forward with his purchase. He cooperated with the developer in swapping land based on the direction that Krueger had laid out. The development plans do not resemble Country Meadows. Based on the information in the staff report, he needs some questions answered. It is apparent after reading the report and talking with the Planning staff, that the basic theme is to ignore the zoning requirements for lot sizes and height requirements for apartment buildings, and increase the number of dwelling units by 70% per acre and increase cluster density by 57%. There appears to be no concern about the impact on current property owners other than making sure they pay for sewer and streets. The staff analysis that the development more efficiently utilized the site is troubling to him. Is this really what we want the end product to look like? Are we building parking lots for houses, or are we trying to develop appropriate parts of our community that promote building homes with green spaces and providing safe places for our child to play and grow?

A recent article appeared in the Lincoln Journal Star on March 6th, stating that 1,147 homes are currently on the market in Lincoln. The housing market continues to favor the buyer. With this many houses in one area, do you feel comfortable approving a plan with two 60x100 lots for children to play? The distance to these parks should be addressed. Having houses on 60x100 lots does not attract people to Lincoln. It is difficult to understand the rationale behind this plan.

Drake wanted to know upon what basis the Commission grants adjustment of the height waiver? Just because the developer got a waiver at another location should not justify the stamp of approval on this building. What justification is there to waive the cluster density from 15 dwelling units to 23.6 dwelling units per acre? What justification is there for waiving the width and depth of the commercial lots? Most of the residential lots are 60x100', or 1.66 times the width. Even though this meets the minimum requirements of R-3, why would we have new development on the edge of the city with these small lots?

Drake suggested that the overall theme is disturbing. If you have not visited this area, you should. All of us have made serious investments in our land and homes. We realize the development needs to happen, but some common sense needs to overlook the process. Carlson asked Drake whether he lives on the property. Drake stated that he lives on the property. He purchased it to live on it, not to develop it. Carlson asked Drake to explain the 60' stub to which he referred. Drake explained that the adjacent property owners own 30' stems of land that connect them all the way to 14th Street.

Hunter asked whether Drake has sold some of his property to others. Drake explained that he has negotiated an agreement with Krueger to swap some land.

Staff Questions

Steward noted that there has been a lot of testimony about the recreational and green space. Are there alternatives? Steve Henrichsen of Planning staff clarified that this is a community unit plan and preliminary plat. The original Vavrina Meadows Addition is generally the northern half and is already approved. In that part, there are two miniparks that were dedicated as part of the original plan; the developer dedicated the land, donated funds for construction of playground equipment and set it up so that the homeowners would be maintaining the grounds. Privately, the open space also includes about 7 acres along the drainageway through the middle. With the additional park of 1st Addition, the main recreational amenity has been the bike trail coming up through the site up to 14th Street, and then from 14th connecting to the bike trail along Pine Lake Road. The developer is providing 40% of the cost of the bike trail and more trees, etc.

In terms of a recreation plan, Henrichsen advised that the ordinance requires the developer to provide an outdoor recreation plan in the community unit plan. Henrichsen noted that this is covered in Condition #1.1.3 of Special Permit No. 1753B. The developer does not have any problems with providing an outdoor recreation plan specifically for the apartment area.

Henrichsen then explained the existing conditions. There is a rather large lot that has an existing house on it. There are six houses, two of which Krueger has purchased and which will remain with this development. There are four houses that will remain outside of the area of the community unit plan. For six lots, there are panhandles that lead out to 14th Street, and four of those have been purchased by Krueger and included as part of this plat. It is Henrichsen's understanding that the other properties have agreements to sell their panhandles so that they can be included as part of preliminary plat in exchange for additional land.

Steward noted that in the southern part of this development extension, other than the bike trail, there is no dedicated park space separate from the footprint of the apartments. Henrichsen concurred, stating that within the area between 14th and 27th from Yankee Hill Road to Pine Lake Road the city is still interested in acquiring additional park land of 8 acres or more for a neighborhood park.

Henrichsen also advised the Commission that there will be another preliminary plat for a residential subdivision coming forward in the near term for the property to the east of the four lots.

Carlson noted that the previous approval included an adjustment to the cluster density, with the rationale of underground parking and increased green space on the site. What is the rationale on this site? Henrichsen believes that the applicant is interested in reducing the height waiver request. As part of the conditions, the staff has recommended a road to provide access to the adjacent property and move the road to the west, which would allow the apartment buildings to be oriented east/west. Only the ends of the two apartment buildings would be to the adjacent property. Staff recommends approval of the height waiver because this property falls off substantially as it goes to the west. The setback had been increased if the height was going to be increased. He believes the height request will now be 38' instead of 43'. The cluster density is similar to the same cluster density of the apartments to the north of the property and it is staff's opinion that they are similar style with the underground parking and because of the trail and other open space, the additional cluster density is warranted.

With regard to stubbing of the road, Henrichsen agreed with Alder that the staff neglected to properly address the adjacent residences. He lauds their efforts because they have been talking to the staff for the past two years and the staff has been trying to address their concerns. Henrichsen clarified that the staff does not leave it up to the property owners to address the impact on their property. The staff had felt that the conditions offered have addressed their issues.

Henrichsen pointed out that the staff has asked for a stub road in two locations. When these property owners wish to sell, the property may be subdivided and those two stub roads are recommended for future subdivision and access. These roads are not to condemn a road through their property, but that road could be extended at some point in the future when their property is subdivided. We are trying to address the overall capacity of Yankee Hill Road at some point in the future.

Newman sought further clarification about the land falling off to the west. Does that mean Shirley Alder's property is higher? Henrichsen's response was that generally most of the property along 14th is very flat, but it does start to rise as you head uphill.

Henrichsen recommended an amendment to Condition #1.1.1 of the Preliminary Plat as follows: "...2) from S. 22nd Street to the east line of the plat in the vicinity of Lots 14 through 17, south of Lot 17, Block 14;...".

Response by the Applicant

Chair Bayer left and Vice-Chair Schwinn conducted the remainder of the meeting.

Krueger responded to the comments by the opposition. He is not opposed to providing recreation space. He also indicated that he would reduce the height waiver from 43' to 38'. Krueger described the tree masses. From very early on, the neighbors did not want a roadway coming through and he agreed and designed the project accordingly. The residential uses were sited because staff wanted to have some residential use at that location. Krueger submitted a letter from Allders in support of not running that street through which he received in September. Krueger requested that the conditions requiring that stub street be deleted-- Conditions #1.1.2 and #1.1.4 of Special Permit No. 1953B. Krueger also requested that Condition #2.2 of Special Permit No. 1753B be amended to adjust the building height from 35 feet to 38' (instead of 43 feet).

With regard to the conditions of approval on the preliminary plat, Krueger requested to delete Conditions #1.1.1 and #3.3.

In relation to paving south of 15th Street, Krueger pointed out that the plan shows a 40' cross-section, which should be changed to 36'. This is not in the conditions of approval.

Carlson suggested that Condition #1.1.5 on Special Permit No. 1753B also refers to the height of the apartment building and Krueger's requested amendment to Condition #2.2 of Special Permit No. 1753B should also be reflected in Condition #1.1.5. Krueger concurred.

Addressing Condition #1.1.2 on Special Permit No. 1753B, which requires the relocation of So. 19th Street approximately 160 feet to the west, Krueger submitted that the project lays out best as shown. Staff had indicated that they had requested 1320' west from Wilderness Ridge Road with the idea to have access to major arterials roughly every 1/4 mile. Krueger believes that placing it as shown is not out of line and meets the general intent of the subdivision ordinance.

Henrichsen further explained at the map. There is a median opening scheduled with Wilderness Ridge Road just to the east of this project. The main point of Condition #1.1.2 was to orient the apartment buildings east/west.

Steward referred to Condition #1.1.3 of Special Permit No. 1753B regarding the outdoor recreation plan for the apartment area. The proponent says that he is okay with that; however,

shouldn't we be asking for a recreational area for more than just the apartments? Steward is concerned for open space compared to the density proposed. Henrichsen's response was that originally the Parks Department shared this same concern and the city has identified the need for an 8-acre park in this area, but with the adjacent 240 acres to the east, the bike trail, the two tot lots and the private open space, Parks is satisfied with the proposal through the component of the community unit plan. Steward agrees that to be reasonable for the long term, but it seems very indeterminate and very "iffy" whether there will be 150 families out here without access for some period of time. Henrichsen also observed that the Infrastructure Financing Study committee did take a look at this for a more systematic approach to dedicate park land. This is a situation that we have had in many other places. Parks believes that the amount of recreational facilities is acceptable under the CUP.

Steward asked the applicant whether there is any leverage for purchase or other thoughts he might have within this H-4 designated area to provide recreational uses. Krueger thought that to be a good question. When he submitted the original subdivision there were two parks, and the Parks Department said they only wanted one. In the past number of months, especially with the bike trail, it seemed like that was going to make the difference. Krueger indicated that he would be glad to talk with Parks further, but he does not know how it is perceived, especially since they only wanted one park in the original Vavrina Meadows Addition. Once you get on the bike path, you're there. Krueger was able to provide the land for Porter Ridge Park so he has done a good share of park land dedication over the years. The small parks are 100x100 dimensions, and he provided the funding for the improvements. Steward agrees that the bike trail is a reasonable middle ground.

Carlson asked Krueger to respond to reorienting the apartments. Krueger agreed that if they moved the stub street to the east 160', the apartments could be reoriented, but his neighbors don't want that and he does not want that.

Public hearing was closed.

ANNEXATION NO. 01001**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

March 7, 2001

Duvall moved approval, subject to the Annexation Agreement, seconded by Steward.

Hunter commented in regard to the comments by the abutting property owners. She believes that situations like this make their property more valuable in the future. As a whole, with the accesses to the perimeter roads, this is a relief to see instead of the kinds of things that have come up around 56th & Hwy 2 where the homeowners are totally distressed about their ability to get out to main roads. She believes the development is well-planned.

Steward does not believe that Lincoln has enough choices in size of lot configuration and residential condition. He agrees with Hunter that these are inevitable. The acreage issues close into the city are going to continue to front us. We have an obligation to recognize ownership, but he believes the quality of life and ultimate character of these close-in acreages are going to be more problematic. Increased density to conserve other land and to bring the character of Lincoln into greater choices for housing and affordability are imperative. He believes that this is a reasonable approach.

Duvall believes this is an outstanding plan. He looks forward to seeing the increased density. This will start lowering our costs as a whole for our infrastructure.

Taylor is pleased with the trail.

Motion for approval carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn voting 'yes; Bayer absent.

CHANGE OF ZONE NO. 3301

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Duvall moved approval, seconded by Carlson and carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn voting 'yes; Bayer absent.

SPECIAL PERMIT NO. 1753B,

VAVRINA MEADOWS 1ST ADDITION COMMUNITY UNIT PLAN

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendment deleting Condition #1.1.2 and Condition #1.1.4, and changing the height waiver to 38' in Conditions #1.1.5 and #2.2, seconded by Krieser.

Carlson wanted some discussion about the road accesses and the potential for what may or may not happen to those parcels on 22nd and 19th. 19th Street might be taken care of in the next phase. Moving So. 19th would have the stub road and reorient the apartments which the neighbors are not in favor of. However, he does not want to end up with a larger three parcels combined in 10-20 years not having access at all.

Hunter noted that So. 22nd is stubbed out to the south side. Scotch Pines Pass is stubbed and she assumes that at some point in time those properties will become developed. That straight shot down through there is nothing like we have seen in the past.

Steward stated that he was inclined to want to leave Condition #1.1.2 intact and be in agreement with the stub or the roundabout requirements for future circumstances. It seems that the roundabout locations are minor traffic carriers and that just a straight stub is sufficient.

Steward made a motion to amend to retain Condition #1.1.2 as recommended by staff, seconded by Newman.

Newman believes this gives the apartment houses more space and therefore they can be manipulated a little more away from the property line, and the stub will be there for 20 years in the future if the Allders decide to sell their property and subdivide.

Schwinn agreed that it gives more room for the apartments, but does that mean more apartments? Henrichsen clarified that the cluster density requirement stays the same at 23.6 dwelling units. The developer is already going to have to drop some units. By increasing the area, those units might go back in. The net result might be the same number of units but over a greater area.

Motion to amend to retain Condition #1.1.2 carried 5-3: Carlson, Steward, Krieser, Taylor and Newman voting 'yes'; Hunter, Duvall and Schwinn voting 'no'; Bayer absent.

Main motion for conditional approval, with amendment deleting Condition #1.1.4 and amendment to Condition #1.1.5 and #2.2 to show the 38 feet height instead of 43', carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, and Schwinn voting 'yes'; Bayer absent.

PRELIMINARY PLAT NO. 00022

VAVRINA MEADOWS 1ST ADDITION

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, with amendment to Condition #1.1.1 as recommended by staff and deleting Condition #3.3. The amendment to Condition #1.1.1 gives the developer more flexibility in locating 22nd Street.

Motion for conditional approval, with amendment to Condition #1.1.1 and deleting condition #3.3, carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, and Schwinn voting 'yes'; Bayer absent.

USE PERMIT NO. 129A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Newman and carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, and Schwinn voting 'yes'; Bayer absent.

SPECIAL PERMIT NO. 1895

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Duvall moved to approve the Planning staff recommendation of conditional approval, seconded by Hunter and carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, and Schwinn voting 'yes'; Bayer absent.

ANNEXATION NO. 00006;

CHANGE OF ZONE NO. 3255

FROM AG AGRICULTURAL TO O-3 OFFICE PARK,

B-2 PLANNED NEIGHBORHOOD BUSINESS,

R-3 RESIDENTIAL AND R-4 RESIDENTIAL;

SPECIAL PERMIT NO. 1839,

MORNING GLORY ESTATES COMMUNITY UNIT PLAN;

PRELIMINARY PLAT NO. 00011,

MORNING GLORY ESTATES;

and

USE PERMIT NO. 128

ON PROPERTY GENERALLY LOCATED

AT NORTH 84TH AND HOLDREGE STREETS.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn; Bayer absent.

A written request by Michael Rierden on behalf of the University Park Congregation of Jehovah's Witnesses was submitted requesting a two-week deferral.

Proponents

1. **Mark Hunzeker** appeared on behalf of Holdrege Investors, L.L.C. and agreed with the request for a two-week deferral.

Duvall moved to defer, with continued public hearing and administrative action scheduled for March 21, 2001, seconded by Steward and carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman, and Schwinn voting 'yes'; Bayer absent.

COMPREHENSIVE PLAN AMENDMENT NO. 94-56
“SOUTHEAST LINCOLN/HIGHWAY 2 SUBAREA PLAN”
FROM SO. 56TH TO SO. 98TH STREET,
FROM OLD CHENEY ROAD TO ½ MILE SOUTH OF
YANKEE HILL ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 7, 2001

Members present: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn; Bayer absent.

Staff recommendation: Approval of the revised Subarea Plan dated February 22, 2001. Steve Henrichsen of the Planning staff submitted additional information including a letter from a resident east of 98th expressing concerns in regard to specifically the Andermatt property and access to 98th Street, and how the Andermatt property is developed between Yankee Hill Road and Pine Lake Road.

Henrichsen also submitted an updated list of requests for amendment (Exhibit “A”), with three new requests, #14, #15 and #16. The Rural Water District is proposing additional language; however, the staff is recommending that the existing language be retained because there is not yet agreement as to compensation to the Rural Water District.

There is a request to add 1 acre of commercial use at the northeast corner of 84th & Old Cheney. The staff is recommending that the designation remain Urban Residential.

Another request is for the northwest corner of 84th and Old Cheney which the staff recommends remain as Urban Residential.

Henrichsen advised the Commission that a public meeting was held at the Berean Church and the staff has forwarded all comments to the Commission. The revised subarea plan dated February 22, 2001, has been sent to the Planning Department's subarea plan mailing list and meetings were also held with the Pine Lake and Cheney residents.

Henrichsen then reviewed several of the requests for amendment as set forth on the list.

There has been a request at Old Cheney and Hwy 2 for office (#1 on Exhibit “A”). The staff is recommending that it be shown as Special Residential instead office use. Public Works continues to review the impact that this change would have on the intersection of Vandervoort and Old Cheney. It would change from 3-way to 4-way and could impact the turning

movements into Edgewood and the through movements on Old Cheney Road. The staff continues to recommend Special Residential and has changed the text on page 11 of the revised Subarea Plan.

With regard to the Shopko property (#2 on Exhibit "A"), the staff is not in agreement with the proposal for commercial designation at 66th & Highway 2. There is a definite concern about the impact on the intersection of 56th Street, Old Cheney Road and Hwy 2. The staff is recommending Urban Residential. Schwinn inquired whether this could be multi-family. Henrichsen agreed that with its location being adjacent to the Trade Center it may be appropriate for apartments. The Shopko site today is shown as Urban Residential in the Comprehensive Plan. The only real change is the addition of an area of Special Residential.

Henrichsen also pointed out that Country Meadows (#3 on Exhibit "A") supports the subarea plan as recommended by the staff.

With regard to the Rogge property request for six acres to be shown as office (#6 on Exhibit "A"), Henrichsen advised that the property is currently shown as low density residential. The proposed subarea plan identifies it as Urban Residential with a Special Residential designation.

With regard to the Realty Trust Group request for 5 acres of B-1 commercial at the southwest corner of 70th & Pine Lake Road (#5 on Exhibit "A"), the staff continues to recommend an Urban Residential designation.

Henrichsen then reviewed the staff's proposed changes to the subarea plan. One is to identify the Livingston Property as office rather than retail. This reflects the zoning of that property today.

Two street connections have been changed in Pine Lake--No. 80th and North Shore Drive. The residential street connections have yet to be resolved. Pine Lake would like both of the proposed street connections eliminated. Pine Ridge Lane would connect to a future road network to the west of Pine Lake. The purpose is to allow residents to the north to have access to a future signal at the intersection of Pine Lake Road and to provide the opportunity for Pine Lake Road residents to have the opportunity to "come out to this point".

There continues to be discussion north of Hwy 2, south of Pine Lake Road, west of 84th. Henrichsen believes they are getting very close to working out some issues, but there may need to be additional time as this goes on to City Council for discussion.

With regard to the 70 acres owned by St. Elizabeth, the staff is proposing to show the eastern 1/4 as Urban Residential. There is also a proposed amendment to the text on p.11 of the revised Subarea Plan. This site may be appropriate for densities as much as 2 dwelling units per acre if the adjacent road network were paved and urban utilities available.

With regard to the Andermatt development at 84th & Hwy 2, east of 84th, Henrichsen reported that they appear to have general agreement on the proposed amendments, i.e. a center of 1.9 million sq. ft., mixed use, with an area shown for 240 acres of development, with buffers, landscaping along Hwy 2, with full access point at 87th Street, and a revised road network generally showing property to the east for Urban Residential, development of a small lake and some major access points with some additional right-in/right-outs in the use permit.

With regard to the village of Cheney, the staff continues to recommend that the area on the south side of Hwy 2, east of 91st, be shown as Urban Residential; the staff continues to show an area of Special Residential on the property immediately closest to relocated Yankee Hill Road/91st Street; continues to show an asterisk in terms of Cheney's inclusion in the future service limits; and recommends additional text on p.10-11 to address the concerns of the Cheney residents, and to clarify that we have heard from the residents and some members of the SID that are interested in annexation. There are a lot of annexation issues to be resolved in the future.

With regard to the road connection into Cheney, currently there is a full turning movement permitted off 91st into Cheney. Page 11 of the text states that, "...Residents have also expressed their concern about maintaining adequate access into Cheney when Yankee Hill Road and 91st Street are relocated. Prior to any commercial zoning south of Highway 2, the road should be designed to provide full access into Cheney." We do not have a specific design at this time, but this language indicates that maintaining the full access into Cheney is an important part of the subarea plan.

Steward asked for a point of order, wondering whether there is a way for the Commission to deal with the entire subarea plan and then consider the separate amendments so that we know what we are attempting to change. Rick Peo, City Attorney, believes the proposal is to adopt a subarea plan. The Commission's final motion would be approval of the subarea plan, and then if someone wants to make a specific amendment, it would be a motion to amend the main motion. It is one application.

Public Comments

1. Kent Seacrest appeared on behalf of the landowner and developer, Andermatt, in support of the revised subarea plan. There are important changes that have occurred since the public

hearing. He is appreciative of the major change, i.e. an at grade full turn movement at 87th & Hwy 2. Our neighbors supported us on that and now the administration has indicated their support and this will help assure a proper front door to this shopping center.

Seacrest stated that they are working hard on the new route for Yankee Hill Road, which the revised plan shows. Andermatt has had to compromise from the original 3 million sq. ft. to 1.9 million sq. ft. (5850 pm trips). The other change not pointed out by staff is that the south side of Hwy 2 is now geared toward highway services, and the north will be primarily the bigger retail center, so we won't have comparative shopping going back and forth across Hwy 2.

Seacrest highlighted another important change, i.e. the high amenity lake, with a 100' buffer on both sides of Hwy 2, which is the biggest buffer that has been offered up and down Hwy 2 to date.

Seacrest requested that the Commission vote on this subarea plan today. This has been deferred since November and it is now 14 weeks later and we can't get our zoning and process our use permit unless this process goes forward.

Seacrest thanked the Pine Lake Neighborhood Assn. for their support. Andermatt is helping move 84th Street away from them and providing buffer spaces, and the Pine Lake residents indicate support of this vision. They have also worked out zones where we won't be putting big boxes of fast foods up against that neighborhood.

Seacrest thanked Cheney for their support and Andermatt supports them getting in and out of their community with a new full turn movement at Yankee Hill Road.

Seacrest thanked Kathleen Sellman, Steve Henrichsen, the Planning Department and Public Works officials for a lot of work to get us to this point.

2. Julie Southwick, Cheney, and Linda Spanel, Cheney, referred to the northern triangle and indicated that they would like to go ahead and see this as Urban Residential. They don't want any commercial or retail zoning on that property. They collected 109 signatures, 15 of which were people that come into the community. The remainder were actually residents. They believe that Yankee Hill Road on 91st Street looks like a viable project for the community.

With regard to annexation of Cheney, Southwick believes we are really at an historical, unique moment because the last time we annexed a community was Airpark. Cheney is a full-functioning community and there are a lot of different issues that will need to be addressed. Communication and interpretation will be a key factor, including the SID, schools, water, traffic, roads, streets, fire protection, safety, noise, lights, tax base, infrastructure, recreation, economic impact, buffer zones, scenic view, etc. Cheney is a rural village and the residents

would like to maintain this character. How do we maintain our identity? How is the Planning Commission going to let us maintain our identity? This subarea plan will immensely help the whole program. Andermatt has been wonderful to work with.

3. Dwaine Rogge, appeared on behalf of his son, Paul, and his wife, Sandra, owners of the property at the northwest corner of 70th & Pine Lake Road (#6 on Exhibit "A"), pleading to revert the designation for their two lots back to the original designation of "transitional". The revised plan recommends Special Residential and they believe it is more appropriate to have the transitional designation, which allows small maximum 5,000 sq. ft. residential type office buildings, and they think that would be appropriate in this location. The property is at the intersection of two major arterials so the designation should be something more appropriate for that location, either the transitional that they would prefer or office zoning. Either one requires a use permit.

4. Bill Rentschler, Cheney, has spoken previously on three different issues: 1) entrance in and out of Cheney, and he believes this has been resolved; 2) annexation of Cheney, which he understands is progressing; and 3) the north end of Cheney consisting of 21 acres which is recommended for Urban Residential. Since the last meeting, he does not think the community is together on this. There are 109 signatures in favor, but he does not think the other side of the picture was presented. Rentschler requested that the Commission keep the asterisk there on the north end of Cheney. Nothing will happen unless annexation occurs anyway. He wants the area north of Cheney to be developed in a fashion that the people in Cheney are proud of and can be happy with. He believes there is a problem if people just want residential development there. With regard to annexation, Cheney is an old, established community and they will need Lincoln's help in order to develop that land in appropriate fashion.

5. Alan Wood appeared on behalf of Rural Water District #1 (#14 on Exhibit "A"). The RWD has made a recommendation to staff that there be a change in the subarea plan. As originally drawn the language "potential reimbursement" was used and then staff came back with a revised recommendation that took out "potential reimbursement" and essentially talked about a "transfer of land". This all deals with the annexation of the village of Cheney and he realizes this is somewhat off in the future. The RWD will continue to work with the people in Cheney. The RWD has 80 customers in the village and with annexation and the loss of those customers it would result in a 10% reduction in the rate-payer base for the RWD. The RWD was asking that there be language in the subarea plan that recognized the need for "potential reimbursement" of the district for the loss of its rate-payer base.

Steward asked Wood whether he has confidence the discussions will go on if the Commission approves the staff recommendation. Wood's response was, "Absolutely, we want to continue." The RWD realizes that annexation is something they are facing and the RWD will need to continue discussions with Cheney and the staff of the City to come to some reasonable solution to the problems we all face.

6. Royce Mueller, 6730 Anns Court, discussed the Rogge property. The Rogge property is directly in his back yard and he is opposed to their request for a commercial designation. He understands that there have been commercial requests for the southwest corner and now for the northwest corner. Part of his arguments with Home Depot was the commercialization of that whole area infringing into his neighborhood. This property was never designated as "residential transition". "Residential transition" would allow for the development of office buildings, barber and beauty shops, shoe shine, photo, pharmacy, broadcast towers, etc. It was never designated for that. Although he agrees with the proposed subarea plan, he would change that zone on the Rogge property to "Residential" only. They would have to tear down a residential house to build an office building and put commercial there, and it would encroach upon his neighborhood. If anything is done, the Rogge property should remain residential; however, the Country Meadows neighborhood would agree to Special Residential.

7. Brian Carstens appeared on behalf of **Marlyn Schwartz and Lonnie Athey**, (#11 on Exhibit "A") who originally had ideas for potential H-4 and had been working with the community on a roadway alignment into the Village of Cheney. They have come to agreement with the village of Cheney and will drop the idea of commercial designation at this time; however, Carstens wanted to be on record that they would like to revisit this issue sometime in the future when annexation occurs. With 91st Street, we see that as some type of mixed use development of office and some light commercial.

8. Mark Hunzeker appeared on behalf of **Hampton Development Services and Stan and Grace Portsche** (#8 on Exhibit "A"). They have been working since the last hearing with staff and with the Pine Lake Homeowners Assn. trying to resolve land use issues with respect to the area west of 84th Street, north of Hwy 2 and south of Pine Lake Road. We think that it is very important that you pay some close attention to this area. 84th Street is proposed to be relocated to the east from its current alignment. Pine Lake Road is proposed to be relocated to the north from its current alignment. On the west side of 84th, Pine Lake will essentially cease to exist and will have an access point off of 84th with a new or a frontage road that probably stays on the same alignment down to existing Pine Lake Road. Getting in and out of Pine Lake with this new alignment, without also creating a new access point at the main 84th Street entrance to the shopping center, could be very problematic.

Hunzeker requested that the Commission think long term, and think big when thinking long term. It is counterproductive to try to squeeze down the land use on areas like this simply because someone is throwing around a term like "strip commercial". This is not strip commercial. This is commercial, but it is not linear access every 50-100 feet. It is controlled access. It is very well-planned and consistent architecture, etc. Hwy 2 is eventually going to be a city street, probably the only city street with 200' of r.o.w. It is not a good idea to be developing single family or townhouse type residential along this road. We agree with the Pine Lake owners who do not think it is appropriate for multi-family. 84th Street needs to move, and that creates a problem in that there are three property owners who currently have frontage that abuts 84th Street and have access to 84th Street. The Portsche's have a real serious problem with the relocation of 84th Street unless there is some alternative access granted. We are understanding that Public Works is not interested in having even a right-in right-out access to this parcel, so it is very important to have this road which provides an access that runs all the way from 84th to Hwy 2 to provide a possible alternative access across the face of the front of the dam to provide access to the Portsche property. This road is also important for good access to Pine Lake. This road is about 1200 ft. long. The roads that connect 84th to Hwy 2 and the connecting road to Pine Lake amount to 1600 ft. of road. That is a lot of expense. In order for those things to happen, we need to have a project on this triangle that makes economic sense, and to support that level of infrastructure we need to be able to do something non-residential, particularly when given the amount of street they will have to build to do it. It provides a lot of benefit in facilitating the relocation of 84th and Pine Lake and providing access into and from Pine Lake Addition. We have provided a very good buffer in the form of a residential land use designation along Pine Lake Road, along with preservation of the drainageways and wetlands that exist.

Hunzeker went on to note that the plan contemplates office development at a FAR of about .11. The average FAR that the Comprehensive Plan contemplates for new commercial development is .25. Even if you exclude all of the open space, it is only .175, so we're really showing a very low intensity project and we believe we have general agreement with the Pine Lake neighbors. Hunzeker acknowledged that they have yet to reach the fine points of that agreement with respect to defining the exact nature of the buffering and lighting, etc., but they intend to do that.

Hunzeker submitted proposed language to be added to the text of the subarea plan which recognizes that they are still negotiating:

"The approval of the Land Use Map designating the area bounded by Highway 2, 84th and Pine Lake Road ("Triangle") as Urban Residential is with the understanding that:

- 1) Owners of the triangle, the Pine Lake Homeowners Association, and the city staff are in general agreement that some office use should be permitted in the triangle;
- 2) There will be ongoing efforts to reach agreement among the owners, the Association and city staff as to specific amendments to the Land Use Map and text regarding other use of the triangle, landscape and/or residential buffering along the north edge of the triangle, transportation improvements in the triangle and other issues;
- 3) Consensus of the affected property owners in Pine Lake and the triangle is important to successful implementation of the subarea plan.

The Council is advised that the Planning Commission forwards the Land Use Map and text with the recommendation that if consensus is reached among the affected owners and city staff, appropriate amendments should be adopted by the Council to incorporate that consensus."

Hunzeker explained that this is simply a way of saying we have come very close. We didn't quite get there because of time constraints. He would like for the Planning Commission to at least acknowledge that it is important to the legitimacy of any Comprehensive Plan that the owners whose direct property interests are affected by it have achieved some degree of consensus that the plan represents a realistic opportunity for all to enjoy the benefits of the plan.

Steward asked Hunzeker whether he would be as satisfied with this if the language were that "appropriate amendments should be adopted in the future". His premise is that this is a subarea plan and, like the Comprehensive Plan, it is available for amendment at other times. The proposed language implies that you have only between now and the Council to work this out. Steward would propose to be more generous. Hunzeker does not believe it is all that easy to propose an amendment at a later time. In fact, he would suspect the staff response to such a proposal to amend the Comprehensive Plan would likely be that we should wait for the new Comprehensive Plan. Hunzeker believes the interested parties would like very much to reach a consensus on this and to incorporate that consensus into this subarea plan because they all have a desire to reach a solution to this land use question which has some degree of long term permanence as well as some short term benefit. It is very important to be able to build this roadway so that it is in place along with the reconstruction of 84th Street. In order to do that, the owners in the triangle will have to come back very quickly with a proposal for a zone change and use permit in order to get approval of grades and alignment. Putting it off until the Comprehensive Plan update would make that problematic.

Steward stated that was not his intent. His concern is that there is a level of specificity that suggests that there is a project more than just land use concerns. Hunzeker stated that they do not have a site plan yet. In fact, the drawing displayed is a reflection of discussions that were held Monday night and they today discovered that some things will change. They are very interested in getting something going on this project and he thinks the Pine Lake owners are interested in having some degree of security in knowing what they are going to be looking at.

9. Bevan Alvey, President of Pine Lake Association, stated that the Pine Lake Association supports the subarea plan 99%. The 1% that they are still looking for help on has to do primarily with the residential street connections. The Pine Lake Association has been working closely with Hampton and they are very close to an agreement. Hampton has provided Pine Lake with the items the neighbors want to see in that proposal. However, there are still issues to be worked out between staff and Hampton.

On the Andermatt project, Pine Lake worked extensively with the developer and reached a very comprehensive agreement on minimizing the impact and Pine Lake is in full support of their proposal.

With regard to the street connections, Alvey stated that over the last 30 years, Pine Lake has been in a distant cornfield on the edge of Lincoln. The residents that have built their homes out there have made the conscious choice to accept the longer drive for shopping, movies, schools, kids' practices, etc. The tradeoff for that has been the desire for quiet country living. They have very, very safe, low traffic streets and they are away from the city lights and noise with a small lake for fishing. They virtually live in a neighborhood that is essentially one large cul-de-sac. There are currently only two entrances into Pine Lake. Fundamentally, the only people that go in are the people that live there or visitors. They have very narrow streets. There are no sidewalks. One of the roads goes over a dam with a 15 mph speed zone because it is so narrow. The residents jog and walk in the streets. The children ride their bikes and skate in the streets. There are a lot of young children in this neighborhood.

Alvey went on to state that they have worked hard to build consensus with all of the neighbors and have compromised. They started off in 1994 really shocked at the idea that there would be such a large shopping area, but it did result in a compromise in which Pine Lake signed onto an agreement for the largest mall in Nebraska. Last spring they began working very hard with Andermatt, Hampton, and Mooberry to come to an agreement. He knows that Pine Lake is going to be a lot different after all of this is done.

Alvey then submitted a proposed amendment to the language in Article VI, Transportation, Subsection C, page 40, of the revised subarea plan (Exhibit "B" attached hereto). This amendment seeks to avoid any unnecessary additional traffic coming into Pine Lake. Pine Lake is concerned that their streets cannot accommodate the connections proposed by staff

and they will create a threat to the safety of the Pine Lake neighborhood. The initial proposal was that Pine Lake would no longer have its complete access on Pine Lake Road to Hwy 2, but would have right-in right-out; that there would be a new entrance coming in on Westshore Drive; another new entrance on North Shore Drive; and another new entrance north of Pine Lake Road that would enter the cul-de-sac, Duggan Avenue. Pine Lake is actually hilly. It comes down steep to the 80th street intersection. There are between 10 and 12 children under the age of 10 that live in the houses along these streets.

The compromise proposal was that Pine Lake would accept the new right-in and right-out; they would accept the entrance "here" into Pine Lake, but would not have the two roads coming into this area from the north and the west. This compromise was not accepted by the staff on the basis that it goes against the open access policy of the city between neighborhoods.

Pine Lake's second proposed compromise is set forth on Exhibit "B" attached hereto.

10. Charlie Humble appeared on behalf of the **Mid-American Conference of 7th Day Adventists** (#8 on Exhibit "A"). Sometime in the past he appeared on behalf of the Conference to talk about the process of going through this subarea planning, expressing some concern about the fact that not all groups had met together and worked together, but instead individually worked. This Commission really gave the opportunity to do that and gave this opportunity that was followed up on by staff. They have met on a number of occasions and have made real progress, not toward a specific project but toward generalized land use planning within the triangle. The Conference would like to keep that progress going and keep the momentum we have established moving forward.

Humble supports the language submitted by Hunzeker. Humble further stated that the concept of a residential buffer along Pine Lake Road followed to the south by commercial/office makes sense and has been supported by the residential. We need to flesh that out and can do so in the next weeks. The road system is coming into place and that is developing very nicely. The Conference is supportive because the future of that triangle needs to be decided once and for all.

In relation to the area along relocated 84th Street which is shown as parks and open space, Humble clarified that the Conference would certainly like to own the adjacent portion of the r.o.w. after 84th Street is relocated. The Conference supports the relocation.

Charlie Humble also appeared on behalf of **Manette Kidney** regarding designation of the northeast corner of 84th & Old Cheney Road as commercial (#15 on Exhibit "A"). Increasing pressure on that single family home will go forward as time elapses and as things develop. There is commercial across the street to the south. It is totally surrounded by apartments. That is why we asked for commercial/office.

11. Gayle Hanshaw, President of the Cheney Community Improvement Program, stated that they appreciate getting 91st Street. He expressed appreciation to everyone that has worked on this process and worked with Cheney. The Cheney CIP would like some way to work in a "Welcome to Cheney" sign at that new intersection, wherever it ends up being located.

Staff questions

Steward pondered passing the staff revised recommendation without any changes. There are projects and development activity that are imminent. It seems that there are two ways that adjustment might take place. One is that a proponent could request an amendment to the subarea plan after it has been approved by the City Council, or they could apply for a specific project that staff concludes is not in conformance and the Commission could pass along a favorable recommendation even though it is not in strict conformance, which Steward believes has been done many times in the past. Henrichsen assured that the Planning Department would continue to process a request for change of zone or preliminary plat, even if they are not in conformance.

Steward suggested that the road system that is being proposed is a principal road network for "guidance". It is not always totally as drawn in this plan, correct? Henrichsen confirmed that the subarea plan is to provide guidance for the overall network—it is not specific. Steward then pondered that the small stub roadway proposed into Pine Lake might yet change because of engineering, the surrounding land use conditions, etc. Henrichsen agreed that there could be some very specific items where there are minor changes as a result of finding additional information as the specific projects move forward. The subarea plan is to provide the big picture to make land use and infrastructure decisions that come forward.

Schwinn noted that there seems to be quite a bit of consensus on the Cheney issue. He wondered whether it might be a good idea to create a Cheney Village Planning Initiative so that we set this area out separately from this mass in the subarea plan and drill down the details with the Cheney residents, or is this good enough? Henrichsen believes that we are probably very near an effort to talk about all of the annexation issues and a lot of

that may help form a nucleus for the residents to discuss their future. Generally, in terms of their proposal for 20 acres of commercial use (200,000 sq. ft.), that large of a development on the north side of Cheney given the proposed access points would not be appropriate in terms of size and scale.

Hunter commented that she has heard information that seems to indicate that Planning is on the road to some sort of an agreement to change the Rogge property designation. She asked whether that agreement is really close. Henrichsen referred to #3 and #6 of the List of Requests (Exhibit "A"). What is shown as special residential and used to be shown as residential transition, did not mean the "R-T" zoning district. The staff continues to recommend Special Residential for the Rogge property. Rogge is requesting commercial/office.

With regard to #8, the Portsche property and Hunzeker's proposed text amendment, Henrichsen agreed with Humble's comments that some agreement should be concluded prior to Council approval. The staff would be opposed to paragraph 1) of the Hunzeker proposed amendment which discusses office use for the Portsche property. The remainder of the Hunzeker amendment is acceptable and would be inserted in the subarea plan text on page 12. He does not believe the city has agreement that this site should be office use.

Schwinn believes that the 7th Day Adventist Building is an office building. Henrichsen disagreed. It is not an office building and it does not have office zoning. It is a church zoned AG.

Henrichsen then commented upon the Pine Lake Association proposed text amendment (Exhibit "B"). The staff is not in favor of that text amendment because it proposes some very specific things. The language in the subarea plan today does not say the streets have to go forward. When a plat comes forward, that would be the time to discuss the pro's and con's in terms of the street connections. Schwinn believes the designation on the map is also clear.

With regard to the concerns of RWD#1, Henrichsen stated that the staff realizes it is an important point, but the proposed language is too specific in terms of how reimbursement to the RWD is going to be done. This issue will also need to be addressed by Cheney and other property owners, including Andermatt.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 7, 2001

Steward moved to approve the “**Southeast Lincoln/Highway 2 Subarea Plan**” as proposed and revised by staff, dated February 22, 2001, with amendment to add the last paragraph of the Hunzeker amendment to be applied to all proposals, “The Council is advised that the Planning Commission forwards the Land Use Map and text with the recommendation that if consensus is reached among the affected owners and city staff, appropriate amendments should be adopted by the Council to incorporate that consensus.”, seconded by Hunter.

Steward believes that we have been at this long enough and there is a deep sense of progress and consensus since the Commission first reviewed the plan. Yet there are still some remaining concerns and he believes some of the proponents are asking for an assurance that that door is still open until the time of Council action. He believes it is equitable for that door to be open for all parties. He believes that the Commission should indicate strong support for the plan as presently proposed.

Hunter withdrew her second because she is not in favor of attaching the amended language to all proposals. She would want that language to only apply to the Portsche property.

Duvall then seconded the main motion.

Hunter moved to amend that the additional language apply only to the Portsche property, the triangle with Hwy 2, Pine Lake Road and 84th, seconded by Krieser. With a subarea plan that has been in discussion for other four months, Hunter does not know how, at the 12th hour, we suddenly pass something on to the City Council with a basket that says, “here it is, but you message everything there is to message”. It is our job to send something on to the Council that is workable. She wants to restrict the amendment to the project that proposed it.

Steward does not intend to discount the practicability and accomplishments of the subarea plan. His objective is to say the subarea plan is valid. Given a personal preference, he would say there should be no amendment, but under the circumstance that there is serious discussion underway and staff has indicated intention to continue that discussion, it seems like the Commission should allow them to continue the discussion and say to the City Council that the Commission has worked on this long and hard. He believes that every other property owner should have the same right as the Hunzeker client.

Carlson believes they still have that right. He worries because the Commission's charge is to forward a recommendation. He believes that the comment should be specific to the specific parcel. He does not know whether we need to make reference to the other property owners.

Motion to amend to restrict the last paragraph of the Hunzeker language proposed amendment to the Portsche property (triangle) carried 5-3: Carlson, Hunter, Krieser, Taylor and Newman voting 'yes'; Steward, Duvall and Schwinn voting 'no'; Bayer absent. **(**Amended by Planning Commission on 3/21/01**)**

Hunter hopes that this Commission is going to take extreme caution in making any kind of changes in the future. We made an extreme commitment to make sure that Hwy 2 develops in a way that would not replicate Cornhusker Highway and some of the other streets in Lincoln. That was one of the reasons she wanted to make that pass forward.

Schwinn commented on the statement that Pine Lake Association is "99%" satisfied. If you go through a process like this and they are 99% satisfied, that is a pretty good deal.

Main motion to approve the revised Southeast Lincoln/Highway 2 Subarea Plan dated February 22, 2001, with amendment, carried 8-0: Carlson, Steward, Hunter, Krieser, Taylor, Duvall, Newman and Schwinn voting 'yes'; Bayer absent.

OTHER ITEMS NOT APPEARING ON THE AGENDA:


Kathleen Sellman, Director of Planning, announced that Ray Hill has been selected as "Land Use Manager" and will be filling the position vacated by the retirement of John Bradley.

There being no further business, the meeting was adjourned at 6:40 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 21, 2001.

Lincoln-Lancaster Planning Department
Memorandum

TO: Russ Bayer, Chair Planning Commission

FROM: Stephen Henrichsen 

DATE: March 7, 2001

SUBJECT: **UPDATED Status of Requests Related to Comprehensive Plan Amendment #94-56**
"Southeast Lincoln/ Highway 2 Subarea Plan"

COPIES: Planning Commission
Kathleen Sellman, Planning

I have updated the memo of March 1st to include our response to two new requests (see Items #14 - #16 on Page 3.)

As per your request the following is the status of previous requests and comments on the proposed "*Southeast Lincoln/ Highway 2 Subarea Plan*":

	Proposal/Comment (Sizes are approximate)	Staff Recommendation/ Action
1)	Charlie Humble for Shopko for 50 acres of commercial at 60 th and Highway 2.	Remains as urban residential with a small portion as special residential, potentially for apartments.-- could significantly impact Highway 2, the overall road network and adjacent residential properties.
2)	Tom Huston for UNO Properties for 7 acres of commercial at 66 th and Highway 2.	Remains as urban residential.-- could impact Highway 2, the overall road network, adjacent 66 th Street and adjacent residential properties.
3)	Christine Kiewra for Country Meadows Association.	In general agreement with subarea plan as proposed.
4)	Jeanette Stoll for property owners for 6 acres of transitional office use on the southeast corner of Highway 2 and Old Cheney Road.	Remains designated as urban residential for special residential uses -- it may be appropriate for office if the impacts on the network and local intersections can be addressed.
5)	Realty Trust Group for a change of zone for 5 acres of B-1 commercial zoning on the southwest corner of 70 th & Pine Lake Road.	Remains as urban residential -- access locations near intersection could significantly impact existing and future residential uses. (Planning Commission previously recommended denial of Change of Zone #3206.)

	Proposal/Comment (Sizes are approximate)	Staff Recommendation/ Action
6)	Jack Wolf for Paul Rogge for 6 acres of office on the northwest corner of 70 th and Pine Lake Road	Remains as urban residential for special residential use – There are issues to be resolved in regards to access, impact on the road network and impact on adjacent existing and future residential properties.
7)	Mark Hunzeker for St. Elizabeth's for 20 acres of commercial use on the southwest corner of 84 th and Highway 2. Later discussed as request for all urban residential.	Apparent agreement on the revision made to subarea plan for Urban Residential on the eastern portion with western portion as Low Density Residential, which could be appropriate for development at a density of two dwelling units per acre if the adjacent road network were paved and urban utilities in place.
8)	Mark Hunzeker for Hampton Development Services, Stan & Grace Portsche, and Seventh Day Adventist for 40 acres of office use on the northwest corner of 84 th and Highway 2.	Remains designated as urban residential. Meetings are underway with Pine Lake Association, applicants and city to discuss potential alternatives to proposal.
9)	Alan Slattery for Pine Lake Association	In general agreement with land uses as proposed. Previously expressed agreement with designating residential connector streets as an "issue to be resolved" since Association is opposed to street connections.
10)	Kent Seacrest for Andermatt LLC for commercial and residential uses from 84 th to 98 th and Highway 2.	In general agreement with the revisions made to subarea plan for approximately 1.9 million square feet of space, 87 th Street intersection and other issues.
11)	Brian Carstens and Bill Rentschler for property owners for 20 acres of commercial use south of Highway and east of 91 st Street, next to Cheney.	Remains urban residential -- commercial development could impact adjacent residents and the village of Cheney as well as impacting turning movements into Cheney.
12)	Gayle Hanshaw for Cheney Community Improvement Program	Subarea plan revised to address concerns about access into Cheney and annexation. CIP supports "mixed development such as professional offices, apartments, day care, light commercial" on north side of Cheney, south of Hwy 2.
13)	Julie Southwick and Linda Spanel for Cheney Community Organization	In agreement with land uses in subarea plan. Supports subarea plan designation of Urban Residential on north side of Cheney, south of Highway 2.

	Proposal/Comment (Sizes are approximate)	Staff Recommendation/ Action
14)	Alan Wood, attorney for Rural Water District #1: revised language regarding reimbursement.	Retain existing language. The new language is too specific. At this time, there is not agreement on compensation for the Rural Water District.
15)	Charlie Humble for Manette Kidney for 1 acre of commercial use on northeast corner of 84 th & Old Cheney Road.	Retain urban residential designation. This one acre site has access locations near intersection which could impact existing and future residential uses. (Planning Commission previously recommended denial of Change of Zone #3245 for this property.)
16)	Realty Trust Group for a change of zone for 6.5 acres of B-2 commercial zoning on the northwest corner of 84 th & Old Cheney Road.	Remains as urban residential -- access locations near intersection could significantly impact existing and future residential uses. (Planning Commission previously recommended denial of Change of Zone #3207.)

Southeast Lincoln/Highway 2 Subarea Plan
Planning Commission Hearing
March 7, 2001

Pine Lake Association proposes the following amendment of the text in Article VI, Transportation, Subsection C, page 40.

C. Residential Streets

Existing Conditions

- Currently there are not any residential street connections between the Pine Lake and Edenton South/Cheney Ridge neighborhoods.

Future Needs

- The subarea plan provides that the main access point from Highway 2 to these neighborhoods would be just to the southeast of the Berean Church at the intersection of Highway 2 and Pine Lake Road. Unfortunately, this new north/south residential street requires the crossing of a wetland area. The need for neighborhood connections and access, however, is more important than the preservation of the wetland in this instance since there are not viable alternatives.
- As the property between the Pine Lake and Edenton South/Cheney Ridge neighborhoods develops the planned residential road connections need to be ~~completed~~addressed. The subarea plan ~~provides for~~suggests multiple connections between these areas (Pine Ridge Lane, Westshore~~Northshore~~ Drive and S. 80th Street). These residential connections are a typical requirement and integral part of providing access and alternate routes. These connections were ~~planned~~included as part of the original layout of the Pine Lake and Cheney Ridge neighborhoods, although there was no anticipation then of constructing over 2 million square feet of commercial improvements within one mile of the Pine Lake subdivision. Without these connections, traffic patterns ~~are~~would be focused on a ~~fewer~~ residential streets.
- Pine Lake residents have approved one of these three connections, but have expressed safety concerns about opening these planned roads at South 80th Street and Northshore Drive. However, ~~While~~While multiple routes are potentially may be safer than allowing residential traffic to have only a few routes, the lack of sidewalks and the width and characteristics of existing Pine Lake roads raise other safety issues. The new north/south connections to Highway 2, just east of the Berean Church, provides an alternative to trips that may have gone through the Pine Lake ~~are a~~neighborhood. Additionally, without these multiple connections, residents face substantially increased travel times and increased energy consumption.

Issues Yet to Address

- Residential street connections at ● The South 80th Street connector (both in Pine Lake subdivision and the new subdivision to the north) will be dedicated for roads, but will not be constructed as a road in the near term. Pine Lake Neighborhood Association has agreed to develop and maintain this area as a children's park and playground. It would also be improved as a connector between neighborhoods with a bike and pedestrian trail to facilitate movement between the areas. This would keep road options open until such time as the City and the affected neighborhoods determine that a north-south connector should be opened to automobile traffic.
- With the development of Pine Ridge Lane as a connector, there is less need for Northshore Drive to connect to the west. Further, as a connector, Northshore Drive would have to cross wetlands and a tree mass. Therefore, the subarea plan provides that Northshore Drive and S. 80th Street between Pine Lake and adjacent properties have yet to be resolved. The subarea plan shows that Pine Ridge Lane would connect will be built as a cul-de-sac for access to Westshore Drive in Pine Lake with the adjacent property for residences developed immediately west of Pine Lake subdivision. Until these homes are developed, Pine Lake Neighborhood Association has agreed to maintain the right-of-way as green space.

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